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**JAN 07 2010**

In re Application of	:	
Tetsuya NOGUCHI et al.	:	
Application No. 09/818,802	:	DECISION ON PETITION
Filed: March 27, 2001	:	
Attorney Docket No. JP920000026US1	:	

This is a decision on the renewed petition, filed January 05, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment mailed June 30, 2008, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 31, 2008.

Petitioner asserts that the Office action dated June 30, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries related to this decision should be addressed to the Michelle R. Eason at (571) -272-4231.

This application is being referred to Technology Center Art Unit 2437 for appropriate action in the normal course of business on the reply received May 26, 2009.



for Thurman K. Page  
Petitions Examiner  
Office of Petitions